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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,886	02/19/2004	Ernest Marvin Thiessen	ICANS3/WAB	9051

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EXAMINER

SKINNER, SHEWANA D

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3689

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/780,886	Applicant(s) THIESSEN ET AL.	
	Examiner SHEWANA SKINNER	Art Unit 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/2/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/5/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is a Final Action on the merits. **Claims 1-3 have been amended, Claims 6-18 have been cancelled and Claims 19-24 are new. Therefore, Claims 1-5 and 19-24 are currently pending and have been considered below.**

Response to Amendment

1. The 35 USC §112 ¶2 rejection of Claims 15-18 is withdrawn in light of Applicant's cancelling of said claims.
2. The 35 USC §102 (b) rejection of Claims 1-3 is not withdrawn. Applicant has failed to convey, with amendments, how applicant's invention, as recited in the claim, is not anticipated by prior art *Thiessen et al (US 5,495,412)*.
3. The 35 USC §103 rejection of Claims 4-5 is not withdrawn. Examiner notes applicant has amended disclosure claiming copending US Application 10/022,797. Subsequently, Examiner sustains rejection however changes prior art to *Conklin et al. (6,141,653)*.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20 and 24 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 20 and 24 use "if" statements where said statements are not positive recitations of steps.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by

Thiessen et al, (US 5,495,412) hereinafter, “*Thiessen*”.

Thiessen discloses the following as claimed:

1. (Currently Amended)

A computer-based method for assisting at least two parties

involved in a negotiation problem with ~ ~~any number~~ of variables in achieving a

mutually satisfactory agreement on decisions to be taken on ~~one or~~ more of said variables (*col 3 lines 11-16*)

comprising the steps of:

a) providing a negotiation system including at least one programmed computer system and an associated interactive graphical interface for interactive input and output of negotiation information to and from said computer system (*Fig 1*) said computer system being programmed to

- display said negotiation information (*Fig and col 5 line 33*), including packages that each represent a potential agreement on decisions to be taken on a plurality one or more of said variables of said negotiation problem in response to entered preference data from each of said parties (*(Examiner finds the type of information to be nonfunctional descriptive material not*

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functionally involved in the steps recited. The step of entering information would be performed the same regardless of the type. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994));

- generate at least one said package (col 5 lines 55-57);
- keep confidential any private information and display that information only to the party to whom that information belongs (col 5 lines 50-51 and 60-62); and
- display negotiation information that is not private, including mutually acceptable packages, only to those parties with permission to see that information (col 6 lines 22-26);

b) entering information into said negotiation system through said graphical interface (col 5 lines 33-34), including information describing the negotiation variables, their relationship to each other, any constraints on the negotiated outcomes of those variables, and information pertaining to each said party's preferences on the outcome of each of said variables (*Examiner finds the type of information to be nonfunctional descriptive material not functionally involved in the steps recited. The step of entering information would be performed the same regardless of the type. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994));*

c) ~~optionally~~ each party_ also entering into said negotiation system through said graphical interface, a proposed private package of values for each of said variables that the party is willing to accept as a solution to the negotiation problem (col 6 lines 27-29) ~~proposals~~

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and/or

~~other packages (which may be declared private);~~

d) in response to said entering of said information and said proposed packages, said negotiation system generating a satisfaction rating for each of said packages and displaying said rating to the party that entered the package (*col 8 lines 46-52*), said rating representing a level of satisfaction that said package would provide the party that entered said package (*Examiner finds the "rating representing a level" to be nonfunctional descriptive material not functionally involved in the steps recited. The step of generating a satisfaction rating would be performed the same regardless of what it's representing. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994);*

~~using each party's inputted information to evaluate packages by specifying a level of satisfaction according to each party's own preferences;~~

e) in response to generation of said satisfaction ratings, each party entering into said negotiation system confirmation of their acceptance of said satisfaction rating as defining a level of satisfaction that they are tentatively willing to accept for any packages generated by said negotiation system (*Fig 2B accept or reject common base candidate*) ~~for one or more parties, a confidential acceptable level of satisfaction and, for each of those parties, their willingness for maximum possible corresponding satisfaction levels for other parties to be generated for and revealed to other parties;~~

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f) if possible, said negotiation system generating an equivalent package to be submitted to each of said parties as a potential agreement to the negotiation problem that provides each party to the negotiation with a satisfaction rating that is equal to or better than the satisfaction rating of each party's proposed package (*col 10 lines 22-26*); and, if not possible, said negotiation system requesting one or more times that one or more of said parties enter a lower package satisfaction rating that the party is willing to accept until said negotiation system can generate said equivalent package ~~given said entered information, for each given said confidential acceptable level of satisfaction declared by said one or more parties, said negotiation system using optimization techniques to generate a fair distribution of maximum possible satisfaction levels for each other party; and~~

g) displaying the values for all of the variables in said equivalent package to each of said parties (*col 5 lines 58-60*) so that the parties can determine whether they accept the equivalent package as a tentative agreement to the negotiation problem ~~said maximum possible satisfaction levels to said other parties;~~

~~if and when each of all said other parties to the negotiation (or a subset, if coalitions are allowed) accept the said maximum satisfaction level revealed to that party, said negotiation system using optimization techniques with said entered information to generate an equivalent package that would give at least as much satisfaction to each party as they have declared acceptable;~~

~~revealing said equivalent package to all parties concerned;~~

~~using each party's inputted information to evaluate said equivalent package in terms of a specified level of satisfaction according to each party's own preferences; and~~

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~~declaring as a tentative agreement among two or more parties, any package that has been accepted by each of those parties.~~

2. (Currently Amended)

The computer-based method of claim 1, further including the step of said negotiation system using optimization techniques to generate an improved package that provides a satisfaction rating for at least one of said parties that is better than the satisfaction rating provided to that party by said equivalent package, but provides at least the same satisfaction rating as does said equivalent package of all other of said parties (col 16 lines 44-46 where gain is in reference to the equivalent package) is Pareto optimal (if not already) according to said entered preferences (or changed preferences) and displaying said improved package on said one or more graphical interfaces.

3. (Currently Amended)

The computer-based method of claim 2, wherein said step of providing a negotiation system including at least one computer system and an associated interactive graphical interface further comprises:

- a) providing a plurality of independent, separate computer systems and associated interactive graphical interfaces, one each for each of said parties, each said independent, separate computer system being programmed to receive and process information from each party, including that pertaining to each of said party's preferences on the outcome of each said variable involved in said negotiation problem (col 5 lines 31-33) ; and,
- b) providing a central computer system located at a neutral site and a plurality of communication

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links connecting each of said independent, separate computer systems to said central computer system, said central computer system being programmed to receive preference information from each of said independent, separate computer systems, generate at least one package representing a potential solution to the negotiation problem in response to entered preference information from each of said independent, separate computer systems, and securely transmit generated information and other information to be communicated between parties; wherein, the information pertaining to each of said party's preferences remains confidential to each party (*col 5 lines 34-64*).

6-18. (Cancelled)

19. (New) The computer-based method of claim 1, further including the steps of said negotiation system generating for each proposed package entered by said parties, a satisfaction rating that each said package will provide for other parties to the negotiation and displaying said satisfaction rating to each of the other parties to the negotiation (Figs 4 and 5).

20. (New) The computer-based method of claim 19, wherein if a proposed package entered by one of said parties generates a satisfaction rating for each of the other parties to the negotiation that is acceptable to each of the other parties, said negotiation system will generate said equivalent package that provides each party to the negotiation with a satisfaction rating that is equal to or better than the satisfaction rating the party has accepted (*"if" statements are not positive recitation and therefore are not given patentable weight as method steps*).

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21. (New) A computer-based apparatus for assisting at least two parties involved in a negotiation problem with a plurality of variables in achieving a mutually satisfactory agreement on decisions to be taken on said variables (*abstract*) comprising:

a plurality of independent, separate computer systems, one for each of said parties (*col 5 lines 31-32*), each said computer system being programmed to receive and process communication between parties and/or other information pertaining to each said party's preferences on the outcome of each variable involved in said negotiation problem, including proposals and confidential acceptance of any package (*col 5 lines 52-64*);

a plurality of interactive graphical interfaces connected, one for each of said independent and separate computer systems for input and output of information to and from the corresponding one of said computer systems (*col 5 lines 30-33*); and

a central computer system located at a neutral site and in communication with each of said separate computer systems (*col 5 line 52*), said central computer system being programmed

to:

a) receive private information from each of said parties, including information describing the negotiation variables, their relationship to each other, any constraints on the negotiated outcomes of those variables, and information pertaining to each said party's preferences on the outcome of each of said variables, and a proposed package of values for each of said variables that the party is willing to accept as a solution to the negotiation problem (*col 5 lines 41-64*);

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- b) generate a satisfaction rating for each of said proposed packages and sending said rating to the party that entered the package, said rating representing a level of satisfaction that said proposed package would provide the party that entered said proposed package (*abstract*);
- c) receive confirmation of each party's acceptance of said satisfaction rating as defining a level of satisfaction that they are tentatively willing to accept for any packages generated by said central computer (*Fig 2b*);
- d) if possible, generate an equivalent package to be submitted to each of said parties as a potential agreement to the negotiation problem that provides each party to the negotiation with a satisfaction rating that is equal to or better than the satisfaction rating of each party's proposed package (*col 10 lines 22-25*); and, if not possible, request one or more times that one or more of said parties enter a reduced package satisfaction rating that the party is willing to accept until said central computer can generate said equivalent package; and
- e) send the values for all of the variables in said equivalent package to each of said parties so that the parties can determine whether they accept the equivalent package as a tentative agreement to the negotiation problem (*Fig 2b*).

22. (New) The computer-based apparatus of claim 21, wherein said central computer is further programmed to use optimization techniques to generate an improved package that provides a satisfaction rating for at least one of said parties that is better than the

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satisfaction rating provided to that party by said equivalent package, but provides at least the same satisfaction rating as does said equivalent package of all other of said parties (*col 16 lines 44-47*).

23. (New) The computer-based apparatus of claim 21, wherein said central computer is further programmed to generate for each proposed package entered by said parties, a satisfaction rating that each said package will provide for all other of said parties to the negotiation and displaying said satisfaction ratings to each of the other parties to the negotiation (*Fig 4 and 5*)

24. (New) The computer-based apparatus of claim 23, wherein if a proposed package entered by one of said parties generates a satisfaction rating for each of the other parties to the negotiation that is acceptable to each of the other parties, said central computer is further programmed to generate said equivalent package that provides each party to the negotiation with a satisfaction rating that is equal to or better than the satisfaction rating the party has accepted (*"if" statements are not positive recitations and therefore are not given patentable weight as method steps*).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 4-5 rejected under 35 U.S.C. 103(a) as being unpatentable over *Thiessen* , as applied to claim 1 above, and in further view of *Conklin* (US 6,141,653), hereinafter “*Conklin*”.

As per CLAIMS 4-5, *Thiessen*, applied to claim 1 above discloses the elements of the base claims of dependent claims 4-5. However, *Thiessen* fails to explicitly disclose the automated process not requiring a graphical interface discussed in each of the dependent claims.

Conklin discloses a method of entering information into a multivariate negotiations engine for iterative bargaining where the engine is automated (*abstract*).

Therefore, from the teaching of *Conklin*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the negotiation system of *Thiessen* to include an automated system not requiring a graphical interface.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEWANA SKINNER whose telephone number is (571)270-7141. The examiner can normally be reached on Monday-Friday 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Mooneyham Janice can be reached on (571)272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SHEWANA SKINNER/
Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689